

**ORDINANCE NO. 1322 C.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ AMENDING TITLE 15, BY ADDING CHAPTER 15.32 TO THE CITY OF MARTINEZ MUNICIPAL CODE, ESTABLISHING REGULATIONS FOR THE NEW CONSTRUCTION OR REPLACEMENT OF WOODBURNING APPLIANCES IN ORDER TO PROMOTE THE REDUCTION OF AIR POLLUTION**

**WHEREAS**, the State Air Resources Board (ARB) adopted a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December, 1982, and levels for the PM10 AAQS were selected pursuant to California Code of Regulations Title 17 Section 70200 to protect the health of people who are sensitive to exposure to fine particles; and

**WHEREAS**, research indicates that woodsmoke is a significant contributor to PM10 levels that pose significant health risks; and

**WHEREAS**, the City of Martinez desires to lessen the risk to life and property from air pollution caused or contributed to by certain woodburning appliances; and

**WHEREAS**, the City of Martinez finds that the proposed regulation will significantly reduce the increase in particulate emissions from future installation and construction activities; and,

**WHEREAS**, the City of Martinez finds a need exists to adopt regulations which apply to woodburning combustion emissions; and

**WHEREAS**, the City of Martinez wishes to amend its Municipal Code to establish regulations for woodburning appliances;

**THE CITY COUNCIL OF THE CITY OF MARTINEZ DOES ORDAIN AS FOLLOWS:**

**SECTION I.** Chapter 15.32 is added to the City of Martinez Municipal Code to read as follows:

**CHAPTER 15.32  
WOODBURNING APPLIANCES**

**Section 15.32.010. Applicability.** Except as specifically provided by Section 15.32.030, the provisions of this Chapter shall apply to each of the following categories of woodburning appliances installed within the limits of the City of Martinez:

- 1) Any woodburning appliance installed on or after January 1, 2006, in any building as that term is defined by the most current edition of the Uniform Building Code, which shall

include but not be limited to, residences, hotels and restaurants.

2) Gas fireplaces shall be exempt from the provisions of this Chapter. Notwithstanding the above, however, the conversion of a gas fireplace to a woodburning appliance on or after January 1, 2006, shall constitute the installation of a woodburning appliance and shall be subject to the provisions of this Chapter.

3) Any woodburning appliance installed on or after January 1, 2006, or that is located within a building that is renovated, altered, or modified, which requires opening up walls immediately adjacent to the woodburning appliance.

#### **SECTION 15.32.020. Definitions.**

1. "Bay Area Air Quality Management District" means the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code Section 40200.
2. "E.P.A." means United States Environmental Protection Agency.
3. "E.P.A. certified wood heater" means any wood heater or woodburning insert that meets the standards in Title 40, Part 60, Subpart AAA, Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.
4. "Fireplace" means any permanently installed masonry or factory-built woodburning appliance, except a pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1.
5. "Garbage" means all solid, semi-solid and liquid wastes generated from residential, commercial and industrial sources, including trash, refuse, rubbish, industrial wastes, asphaltic products, manure, vegetable or animal solids and semi-solid wastes, and other discarded solid and semi-solid wastes.
6. "Gas fireplace" means any device designed to burn natural gas in a manner that simulates the function and appearance of a woodburning fireplace.
7. "Install" means to construct, lay, or insert a woodburning appliance in a building in which no woodburning appliance had existed at the time of such act, or replace an existing woodburning appliance with another woodburning appliance in a building.
8. "Paints" means all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers,

sealers, undercoatings, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.

9. "Paints solvents" means all original solvents sold or used to thin paints or to clean up painting equipment.
10. "Pellet-fueled wood heater" means any woodburning appliance that operates exclusively on wood pellets.
11. "Solid fuel" means wood or any other non-gaseous or non-liquid fuel.
12. "Treated wood" means wood of any species that has been chemically impregnated, painted or similarly modified to improve resistance to insects or weathering.
13. "Waste petroleum products" means any petroleum product other than gaseous fuels that has been refined from crude oil, and has been used, and as a result of use, has been contaminated with physical or chemical impurities.
14. "Woodburning appliance" means fireplace, wood heater, or pellet-fired wood heater or any similar device burning any solid fuel used for aesthetic or space-heating purposes.

**Section 15.32.030. Prohibitions.** It shall be a violation of this Chapter to do any of the following:

1. Notwithstanding Section 15.32.010, use any woodburning appliance that has been installed before, on, or after January 1, 2006, when the Bay Area Air Quality Management District issues a "Spare the Air Tonight" warning and a gas, electric, or woodburning heat source that is otherwise permitted by this Chapter is available for use in the building.
2. Install a woodburning appliance that is not one of the following: (1) a pellet-fueled wood heater; (2) an EPA certified wood heater; or (3) in the event that EPA develops a fireplace certification program, a fireplace certified by EPA.
3. Notwithstanding Section 15.32.010, use any of the following prohibited fuels in a woodburning appliance that has been installed before, on, or after January 1, 2006:
  - a) Garbage
  - b) Treated wood
  - c) Plastic products
  - d) Rubber products
  - e) Waste petroleum products
  - f) Paints
  - g) Paint solvents
  - h) Coal
  - i) Glossy or colored papers
  - j) Particle board
  - k) Salt water driftwood

**Section 15.32.040. Enforcement.** Any person who plans to install a woodburning appliance must submit documentation to the building department, with a permit application, demonstrating that the appliance is a pellet-fueled wood heater, an EPA certified wood heater, or in the event that the EPA develops a fireplace certification program, a fireplace certified by EPA.

Any violation of this Chapter shall be deemed a misdemeanor and upon conviction shall be punishable by a maximum \$500 fine and/or imprisonment in the county jail for no more than six (6) months. A continuing violation shall be deemed to be and shall constitute a separate and distinct offense for each day or portion thereof that such violation continues.

**SECTION II. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**SECTION III. Effective date.** This ordinance shall become effective 30 days after the date of adoption.

**SECTION IV. Posting.** The City Clerk shall cause this ordinance to be published within fifteen days after its adoption, at least once, with the names of those city council members voting for or against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: \_\_\_\_\_  
Rob Schroder, Mayor

ATTEST: \_\_\_\_\_  
Deputy City Clerk

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 7<sup>th</sup> day of September 2005, and

duly passed and adopted at a Regular Meeting of said City Council held on the 21<sup>st</sup> day of September, 2005, by the following vote:

AYES: Councilmembers DeLaney, Kennedy, Ross, Vice Mayor  
Wainwright and Mayor Schroder

NOES: None

ABSENT: None

ABSTAIN: None

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

You can visit the Bay Area Air Quality District at:

<http://www.baaqmd.gov/>